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TAGS: [PGOV](#) [KCRM](#) [KCOR](#) [KJUS](#) [TD](#)
SUBJECT: COURT OF APPEAL QUASHES CONVICTION OF FORMER P.M. BASDEO
PANDAY

REF: A. POS 00200, B. POS 00411, C. POS 00253, D. POS 00505

11. (SBU) SUMMARY: On March 20, Court of Appeal Judge Margot Warner, quashed the conviction and sentence pending against former Prime Minister and current interim Political Leader of the United National Congress (UNC) Basdeo Panday. Warner ordered a retrial for reasons of a possible conflict of interest on the part of the presiding Chief Magistrate Sherman McNicolls. The retrial will be presided over by a different Magistrate. This decision frees Panday to contest his old seat in this year's parliamentary elections and, party willing, to resume his role as Leader of the Opposition. The taint of corruption around him remains, however, and should keep the opposition split, possibly leading to a larger victory for the ruling PNM. END SUMMARY

12. (U) Yesterday's not unforeseen developments stem from the failed criminal prosecution attempt against Chief Justice Satnarine Sharma on March 5, 2007, when Chief Magistrate Sherman McNicolls (who presided over the Panday case) refused to be cross-examined. In the Sharma case, McNicolls was the prosecution's key witness since he alleged Sharma had attempted to pressure him to return a not guilty verdict against Panday on April 24, 2006. The Sharma case unraveled when McNicolls, for reasons not entirely clear, refused to be cross-examined in public.

13. (U) A possible reason for McNicolls' refusal to testify and for his conflict of interest is his involvement in a suspicious land transaction at the time of the Panday trial that involves financiers close to both major parties.

14. (U) As a result of McNicolls' actions, the Court of Appeal ruled yesterday that sufficient evidence existed to conclude that there was a real possibility that McNicolls was biased. Upon leaving the courtroom, Panday was quoted as saying he felt vindicated by the ruling and that both he and his team of lawyers intended to appeal the retrial verdict.

BACKGROUND ON OVERTURNED CONVICTION

15. (U) Basdeo Panday was found guilty on April 24, 2006, on three counts of knowingly making false declarations of income and assets to the Integrity Commission in 1997, 1998, and 1999. As a result, he was ordered to forfeit 266,000 USD of his holdings in a foreign account and pay 10,000 USD in fines while being sentenced to two years in jail. The jail sentence precluded his return to Parliament and his seat was eventually declared vacant. No longer an MP, Panday had to relinquish the role of Leader of the Opposition to his hand selected replacement, UNC MP Kamla Persad-Bissessar.

16. (SBU) COMMENT: It seems the first ripples are finally starting to be felt from the collapsed March 6, 2007 criminal prosecution case against Chief Justice Sharma. Without question, the Court of Appeal

ruling served as a booster shot for the beleaguered UNC and its overall political image. The chief political implication from yesterday's outcome is that Panday's victory has paved the way for him to resume his position as political leader of the UNC and contest his Couva North seat in the general elections due sometime this year.

17. (SBU) Panday's continued strong grass roots support in a heavily UNC district indicates that should he run, he would win the Couva North seat again. If he is not convicted in the retrial or in another corruption trial beginning in June, and this is a big if, then he should have no problem resuming his role as leader of the UNC and hence of the opposition. Panday's lingering association with corruption, however, will likely make him anathema to all but his fervent bloc of supporters. His return to the political fray could actually further split the opposition vote in T&T and possibly hand the PNM an even larger victory than expected. END COMMENT.

AUSTIN